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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/572,638	12/22/2006	Barton Haynes	1579-1093	4199
23117 NIXON & VAN	7590 11/30/200 NDERHYE, PC	EXAMINER		
901 NORTH G	LEBE ROAD, 11TH F	PARKIN, JEFFREY S		
ARLINGTON, VA 22203			ART UNIT	PAPER NUMBER
		1648		
			MAIL DATE	DELIVERY MODE
			11/30/2009	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Application No. Application No. Application No. Application No. HAYNES ET AL.							
### Examiner Jeffrey S. Perkin 1648 ### The MAILING DATE of this communication appears on the cover sheet with the correspondence address → Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE @3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. **Laberiation of time high be scalable under the positions of 37 CPR 1.738(a), in no event, however, they a reply to almost laber of the provision of 37 CPR 1.738(a), in no event, however, they a reply to almost laber of the provision of 37 CPR 1.738(a), in no event, however, they a reply to almost laber of the provision of 37 CPR 1.738(a), in no event, however, they a reply to almost laber of the provision of 37 CPR 1.738(a), in no event, however, they a reply to almost laber of the provision of 37 CPR 1.738(a), in no event, however, they a reply to almost laber of the provision of Claims ### Claim(s) 116:134 lister pending in the application. ### Claim(s) 116:134 lister pending in the application. ### Claim(s) 116:134 lister a pending in the application. ### Claim(s) 116:134 lister a pending in the application. ### Claim(s) 117:134 lister and the provision of the drawing of the provision of Claims. ### Claim(s) 118 lister objected to. ### Claim(s) 118 lister objected to by the Examiner. ### Claim(s) 118 lister objected to by the Examiner. ### Claim(s) 118 lister objected to by the Examiner. ### Claim(s) 118 lister objected to by the Examiner. ### Claim(s) 118 lister objected to by the Examiner. ### Claim(s) 118 lister objected to by the Examiner. ### Claim(s) 118 lister objected to by the Examiner. ### Claim(s) 118 lister objected to by the Examiner. Note the attached Office Action or		Application No.	Applicant(s)				
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Detailed Office Action

Status of the Claims

Applicant's election with traverse of Group II (a nucleotide sequence corresponding toe SEQ ID NO.: 37) in the reply filed on 23 March, 2009, is acknowledged. Applicants traverse and submit it would not constitute an undue burden to examine all of the claimed sequences concomitantly. It was further argued that a national stage application was considered to have unit of invention if the claims are drawn to a product and process of use. These arguments are not found persuasive for the reasons of record previously set forth and as further elaborated herein. First, contrary to Applicants' assertion, each of the identified sequences would necessitate a separate search by the Scientific and Technical Information Center (STIC). Applicants are reminded that the United States Patent and Trademark Office (Office) published an Official Gazette notice in November of providing a partial waiver of the requirements for restriction pursuant to 37 C.F.R. § 1.141 et seq. and for unity of invention determinations pursuant to 37 C.F.R. § 1.475 et seq. Patent Applications Containing Nucleotide Examination of Sequences, 1192 Off. Gaz. Pat. Office 68 (Nov. 19, 1996) (1996 Notice). The 1996 Notice permitted examination of a reasonable number, normally up to ten, independent and distinct molecules described by their nucleotide sequence in a single patent application. The Office has reconsidered the policy set forth in the 1996 Notice in view of changes in the complexity of applications filed, the types of inventions claimed and the state of the prior art in this technology since that time.

Because of these changes, the search and examination of up to ten molecules described by their nucleotide sequence often consumes a disproportionate amount of Office resources over that expended in 1996. Consequently, with this Notice the Office rescinds the partial waiver of 37 C.F.R. § 1.141 et seq. for restriction practice in national applications filed under 35 U.S.C. § 111(a), and 37 C.F.R. § 1.475 et seq. for unity of invention determinations in both PCT international applications and the resulting national stage applications under 35 U.S.C. § 371. This Notice is effective immediately and is applicable to all pending applications. Note, however, that supplemental restriction requirements will not be advanced in applications that have already received an action on their merits in the absence of extenuating circumstances. Second, Applicants are reminded that if multiple products, processes of manufacture, or uses are claimed, the first invention of the category first mentioned in the claims of the application and the first recited invention of each of the other categories related thereto, will be considered as the main invention in the claims (refer to PCT Article 17(3) (a) and § 1.476(c)). However, the elected sequence was not first mentioned in the claims. Moreover, each of the identified groups and sequences lacks unity of invention because of their divergent subject matter. Accordingly the requirement is still deemed proper and is therefore made FINAL. The Examiner would consider rejoining a single method of use claim and method of manufacture if SEQ ID NO.: 37 is free of the prior art. The Examiner would also consider examining more than one sequence in a future application if Applicants can demonstrate that the claimed sequences share a closely related structure. Claims 119 and 127-134 appear to read on the elected invention. Claims 116-

118 and 120-126 are withdrawn from further consideration pursuant to 37 C.F.R. \S 1.142(b), as being drawn to a nonelected invention. Claims 119 and 127-134 appear to read on the elected invention.

37 C.F.R. § 1.98

The information disclosure statements filed 17 March, 2006, and 07 October, 2008, have been placed in the application file and the information referred to therein has been considered.

Claims Objections

Claim 119 is objected to because it appears to depend from non-elected subject matter and also incorporate non-elected subject matter. Appropriate correction is required.

35 U.S.C. § 112, Second Paragraph

The following is a quotation of the second paragraph of 35 U.S.C. \S 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 119 is rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Two separate requirements are set forth under this statute: (1) the claims must set forth the subject matter that applicants regard as their invention; and (2) the claims must particularly point out and distinctly define the metes and bounds of the subject matter that will be

protected by the patent grant. The claim depends from a number of non-elected claims. Moreover, it is not readily manifest which limitations are encompassed by the claim. Appropriate correction is required. It is suggested that Applicants rewrite the claim in an independent manner (e.g., An isolated nucleic acid encoding a concensus HIV Env wherein said nucleic acid comprises SEQ ID NO.: 37).

Allowable Subject Matter

Claims 127-134 appear to be free of the prior art of record and are allowable.

Correspondence

Any inquiry concerning this communication should be directed to Jeffrey S. Parkin, Ph.D., whose telephone number is (571) 272-0908. The examiner can normally be reached Monday through Thursday from 10:30 AM to 9:00 PM. A message may be left on the examiner's voice mail service. If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Larry R. Helms, can be reached at (571) 272-0832. Direct general status inquiries to the Technology Center 1600 receptionist at (571) 272-1600. Informal communications may be submitted to the Examiner's RightFAX account at (571) 273-0908.

Applicants are reminded that the United States Patent and Office (Office) requires Trademark most patent correspondence to be: a) faxed to the Central FAX number (571-273-8300) (updated as of July 15, 2005), b) hand carried or delivered to the Customer Service Window (now located at the Randolph Building, 401 Dulany Street, Alexandria, VA 22314), c) mailed to the mailing address set forth in 37 C.F.R. § 1.1 (e.g., P.O. Box 1450, Alexandria, VA 22313-1450), or d) transmitted to the Office using the Office's Electronic Filing System. This notice replaces all prior Office notices specifying a specific fax number or hand carry address for certain patent related correspondence. For further information refer to the Updated Notice of Centralized Delivery and Facsimile Transmission Policy for Patent Related Correspondence, and

Exceptions Thereto, 1292 Off. Gaz. Pat. Office 186 (March 29, 2005).

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Respectfully,

/Jeffrey S. Parkin/ Primary Examiner, Art Unit 1648

23 November, 2009